

**To:** Peurifoy, Cynthia[Peurifoy.Cynthia@epa.gov]  
**From:** Isales, Daniel  
**Sent:** Fri 1/27/2017 7:58:55 PM  
**Subject:** RE: REACH Case and ADR

Cynthia,

Overall good. I was in your general neck of the woods this past weekend. One of my sisters (the one who also used to work for Region III) lives in the Atlanta-east of the city and south of Emory. Although a fairly rainy weekend, we had a great time.

I'm very pleased with these case developments- the call that we had with Michael Regan earlier in the week was extremely positive.

Hope to be back in touch soon, Dan

Daniel L. Isales (3RC60)

United States Environmental Protection Agency, Region III

Environmental Science Center

701 Mapes Road

Fort Meade, Maryland 20755-5350

(410) 305-3016

Isales.daniel@epa.gov

**From:** Peurifoy, Cynthia  
**Sent:** Friday, January 27, 2017 2:55 PM

**To:** Isales, Daniel <Isales.Daniel@epa.gov>  
**Subject:** RE: REACH Case and ADR

Hey, Overwhelmed but good. I'm going to get my pictures and summaries finished. Trying to get this workshop together. Excited about what I'm hearing. How are you?

**From:** Isales, Daniel  
**Sent:** Friday, January 27, 2017 2:50 PM  
**To:** Peurifoy, Cynthia <Peurifoy.Cynthia@epa.gov>  
**Subject:** RE: REACH Case and ADR

Cynthia-thanks, I heard from Ericka. How are you doing? I hope all is well, Dan

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**From:** Peurifoy, Cynthia  
**Sent:** Friday, January 27, 2017 2:13 PM  
**To:** Isales, Daniel <Isales.Daniel@epa.gov>; Roberts, Connie <Roberts.Connie@epa.gov>  
**Subject:** RE: REACH Case and ADR

This is great news!!! I just spoke to Erika and gave her some updates from my end.

**From:** Isales, Daniel  
**Sent:** Friday, January 27, 2017 1:04 PM  
**To:** Roberts, Connie <[Roberts.Connie@epa.gov](mailto:Roberts.Connie@epa.gov)>; Peurifoy, Cynthia <[Peurifoy.Cynthia@epa.gov](mailto:Peurifoy.Cynthia@epa.gov)>  
**Subject:** FW: REACH Case and ADR  
**Importance:** High

I suspect that you will be forwarded the email below by your Region 4 colleagues-but just in case. Thanks, Dan

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**From:** Dorka, Lilian  
**Sent:** Friday, January 27, 2017 1:02 PM  
**To:** Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Covington, Jeryl <[Covington.Jeryl@epa.gov](mailto:Covington.Jeryl@epa.gov)>; Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Wilson, Adam <[wilson.adam@epa.gov](mailto:wilson.adam@epa.gov)>; Packard, Elise <[Packard.Elise@epa.gov](mailto:Packard.Elise@epa.gov)>; Goerke, Ariadne <[Goerke.Ariadne@epa.gov](mailto:Goerke.Ariadne@epa.gov)>; Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>; HALIM-

CHESTNUT, NAIMA <[Halim-Chestnut.Naima@epa.gov](mailto:Halim-Chestnut.Naima@epa.gov)>; Temple, Kurt  
<[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>

**Subject:** REACH Case and ADR

**Importance:** High

Hi Folks – just wanted to let you know that I just heard from Marianne Lado and Elizabeth Haddix on behalf of complainants in the REACH case that they are interested in engaging in ADR with NC DEQ. They did ask me to pass along to NC DEQ 2 things: 1) complainants also are interested in moving quickly and 2) given prior experience their hope is the NC DEQ will bring some proposed actions to the table. Next steps for me include:

- Contacting Michael Regan, Secretary, NC DEQ (he asked that I contact him directly)
- Contact Jeanne Briskin and ask her to reach out to each of the parties to begin the process.

I will also ask Jeanne to make sure to notify our office as soon as a mediator has been identified so that we can then formally toll our investigation.

ELISE: I left you a voice message on this, and will hold off contacting anyone until I hear back from you.

Thanks!!

**To:** Isales, Daniel[Isales.Daniel@epa.gov]  
**From:** Peurifoy, Cynthia  
**Sent:** Fri 1/27/2017 8:00:18 PM  
**Subject:** RE: REACH Case and ADR

Great!!!!

**From:** Isales, Daniel  
**Sent:** Friday, January 27, 2017 2:59 PM  
**To:** Peurifoy, Cynthia <Peurifoy.Cynthia@epa.gov>  
**Subject:** RE: REACH Case and ADR

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**To:** Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Covington, Jeryl <[Covington.Jeryl@epa.gov](mailto:Covington.Jeryl@epa.gov)>; Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Wilson, Adam <[wilson.adam@epa.gov](mailto:wilson.adam@epa.gov)>; Packard, Elise <[Packard.Elise@epa.gov](mailto:Packard.Elise@epa.gov)>; Goerke, Ariadne <[Goerke.Ariadne@epa.gov](mailto:Goerke.Ariadne@epa.gov)>; Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>; HALIM-CHESTNUT, NAIMA <[Halim-Chestnut.Naima@epa.gov](mailto:Halim-Chestnut.Naima@epa.gov)>; Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>

**Subject:** REACH Case and ADR

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**To:** Isales, Daniel[Isales.Daniel@epa.gov]; Roberts, Connie[Roberts.Connie@epa.gov]  
**From:** Peurifoy, Cynthia  
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**To:** Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>;

Covington, Jeryl <Covington.Jeryl@epa.gov>; Isales, Daniel <Isales.Daniel@epa.gov>; Wilson, Adam <wilson.adam@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Goerke, Ariadne <Goerke.Ariadne@epa.gov>; Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>; HALIM-CHESTNUT, NAIMA <Halim-Chestnut.Naima@epa.gov>; Temple, Kurt <Temple.Kurt@epa.gov>

**Subject:** REACH Case and ADR

**Importance:** High

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ELISE: I left you a voice message on this, and will hold off contacting anyone until I hear back from you.

Thanks!!

**To:** Harrison, Brenda[Harrison.Brenda@epa.gov]  
**From:** Temple, Kurt  
**Sent:** Mon 9/19/2016 10:50:55 AM  
**Subject:** Fwd: NC DEQ sent an 8 page response to REACH complaint dated Sept 2nd

Brenda: Have you seen anything come through from North Carolina in this? Possibly addressed to Laura? Kurt

Sent from my iPhone

Begin forwarded message:

**From:** "Dorka, Lilian" <Dorka.Lilian@epa.gov>  
**Date:** September 18, 2016 at 10:51:43 PM EDT  
**To:** i [Ex. 6 - Personal Privacy]  
**Cc:** "Isales, Daniel" <Isales.Daniel@epa.gov>, "Covington, Jeryl" <Covington.Jeryl@epa.gov>, "Farrell, Ericka" <Farrell.Ericka@epa.gov>, "O'Lone, Mary" <OLone.Mary@epa.gov>, "Rhodes, Julia" <Rhodes.Julia@epa.gov>, "Johnson, Johahna" <Johnson.Johahna@epa.gov>, "Wilson, Adam" <wilson.adam@epa.gov>, "Temple, Kurt" <Temple.Kurt@epa.gov>  
**Subject:** Re: NC DEQ sent an 8 page response to REACH complaint dated Sept 2nd

No I have never seen this. Kurt could u confirm w Brenda that we have not received anything? Thanks!

Sent from my iPhone

On Sep 17, 2016, at 4:50 PM, [Ex. 6 - Personal Privacy] wrote:

<https://ncdenr.s3.amazonaws.com/s3fs-public/DENR/Image%20Files/2016%2009%2002%20Title%20VI%20ltr%20to%20Dorka%20with%20DE14-R4.pdf>

I've not seen or heard of this letter before. Did OCR get it?

I came across it researching nc hog nuisance litigation. NC DEQ is arguing Title VI complaint should be dismissed bc of the nuisance litigation. They also claim the renewal is an envy, improvement over previous permits & like a decrease & our policy is to not look at decreases.

Sent from Mail for Windows 10

**To:** Tommelleo, Nancy[Tommelleo.Nancy@epa.gov]  
**Cc:** Wilkes, Mary[Wilkes.Mary@epa.gov]; Packard, Elise[Packard.Elise@epa.gov]  
**From:** Rhodes, Julia  
**Sent:** Thur 12/18/2014 9:27:21 PM  
**Subject:** RE: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Thanks for your prompt response. Will let you know if additional information is requested.

Julia Rhodes

Assistant General Counsel for the Civil Rights Practice Group

Civil Rights and Finance Law Office

Office of General Counsel

Environmental Protection Agency

1200 Pennsylvania Avenue, NW, 2399A

Washington, DC 20460

Phone: 202.564.1417

**From:** Tommelleo, Nancy  
**Sent:** Thursday, December 18, 2014 4:16 PM  
**To:** Rhodes, Julia  
**Cc:** Wilkes, Mary; Davis, Molly; Ghosh, Mita; Floyd, Tanya; Rubini, Suzanne; Tommelleo, Nancy  
**Subject:** RE: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Julia:

Below are the Region's responses to the two questions you posed in your email regarding the NC CAFO General Permit.

1. Did EPA comment on the draft general permit? If so, what were those comments?

No. EPA did not comment on the draft general permit (AWG100000). EPA does not review or comment on these kinds of State Operating Permits because we lack CWA jurisdiction to do so (they are not issued pursuant to CWA authority). NC issues State Operating Permits to Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) for facilities that do not discharge to waters of the US. These permits are no-discharge permits and are not CWA NPDES permits. Consequently, the State does not send us, for review or comment, their draft State Operating Permits, like the one in question.

**Other information:** The State of NC currently has 3 State Operating General Permits for animal waste operations (a/k/a Animal Waste Management System State General Permits): AWG200000 for cattle; AWG300000 for poultry; and AWG100000 for swine. According to the FY15 106 Work Plan, there are about 1,106 large CAFOs with State Operating Permits and about 17 CAFO facilities covered under the NDPES program in North Carolina.

2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforces the permit under both the CAA and CWA

**CWA:** See above. EPA does not review or enforce these State Operating General Permits as there is no federal jurisdiction to do so. However, we can inspect/enforce at CAFOs for NMP violations.

**CWA - NMP Inspection/Enforcement:** The CWA requires all unpermitted (i.e., those without NPDES permits) large CAFO facilities to have nutrient management plans (NMP) to claim an exemption from stormwater permitting requirements. EPA can use its enforcement discretion to conduct inspections at a CAFO facility to ensure the facility is complying with the NMP. If it is found during an inspection that a CAFO facility is actually discharging to waters of the U.S. without NPDES permit coverage, EPA may bring an enforcement action against the facility for unpermitted discharges of pollutants to waters of the U.S.

## Ex. 5 - Deliberative Process/ Atty Client

## Ex. 5 - Deliberative Process/ Atty Client

**CAA:** The State Operating General Permit (AWG100000) is issued under North Carolina's water pollution regulations (North Carolina G.S. 143-215). The permit does not contain any air requirements nor is it issued under any NC air regulatory authority.

Ex. 5 - Deliberative Process/ Atty Client

## Ex. 5 - Deliberative Process/ Atty Client

-  
Let us know if you need further information or have any questions about the above.

Thanks

Nancy



Nancy L. Tommelleo

*Deputy Regional Counsel*

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

fax: 404.562.9663

[tommelleo.nancy@epa.gov](mailto:tommelleo.nancy@epa.gov)



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**From:** Rhodes, Julia

**Sent:** Wednesday, December 17, 2014 11:48 AM

**To:** Tommelleo, Nancy

**Subject:** FW: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Hi Nancy,

Attached is a draft document for your consideration.

Before moving forward this matter, we need your assistance in answering the following questions:

1. Did EPA comment on the draft general permit? If so, what were those comments
2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforcements the permit under both the CAA and CWA

Other questions that OCR and CRFLO are grappling with but ORC should feel free to weigh in on are:

1. Do we know if complainants submitted comments on DENR's draft general permit? If so what were they?
2. Any cut points/decision points where there may be decisions to either end the investigation or take the investigation in a different direction
3. Where along the 18 month investigatory trajectory will there be points where decisions will be made
4. Can/should we engage in ADR prior to accepting a complaint

Also, it is possible depending on what the jurisdictional determination is in this case, that there will be a need for a series of briefings on CAFOs, as well as meetings with EarthJustice.

Feel free to give me a call if you have any questions.

Thanks, in advance, for your assistance.

Julia

Julia Rhodes

Assistant General Counsel for the Civil Rights Practice Group

Civil Rights and Finance Law Office

Office of General Counsel

Environmental Protection Agency

1200 Pennsylvania Avenue, NW, 2399A

Washington, DC 20460

Phone: 202.564.1417

**To:** Lapierre, Kenneth[Lapierre.Kenneth@epa.gov]  
**Cc:** Wilkes, Mary[Wilkes.Mary@epa.gov]; Tommelleo, Nancy[Tommelleo.Nancy@epa.gov]  
**From:** Heard, Anne  
**Sent:** Fri 1/6/2017 2:39:21 AM  
**Subject:** Re: NEED YOUR ASSISTANCE WITH URGENT REVIEW OF DRAFT LETTER OF CONCERN TO NC DEQ RE HOG OPERATIONS CIVIL RIGHTS CASE

Okay

Sent from my iPhone

On Jan 5, 2017, at 9:29 PM, Lapierre, Kenneth <Lapierre.Kenneth@epa.gov> wrote:

That works for me. Let's use the following call in number so that Mary and Nancy can join us, if they can.

Ex. 6 - Personal Privacy

Code: Ex. 6 - Personal Privacy

Thanks. Ken

Sent from my iPhone

On Jan 5, 2017, at 9:27 PM, Heard, Anne <Heard.Anne@epa.gov> wrote:

Certainly. What about 1:00?

Sent from my iPhone

On Jan 5, 2017, at 7:29 PM, Lapierre, Kenneth <Lapierre.Kenneth@epa.gov> wrote:

Anne:

Attached is a draft letter that Lilian and her team intend on sending to NCDEQ within the next week or so. The letter itself is fine but I have concerns about this being the first contact that EPA has with the new leadership at NCDEQ and it may not even be the appointed new permanent Commissioner when they send the letter. Maybe me, you, Mary, and Nancy can discuss tomorrow after lunch sometime?

Thanks--Ken

Kenneth R. Lapierre

Assistant Regional Administrator

U.S. EPA Region 4

(404) 562-8570

<image001.png>

*I AM Diversity!*

**From:** Dorka, Lilian

**Sent:** Thursday, January 5, 2017 6:22 PM

**To:** Shaw, Betsy <[Shaw.Betsy@epa.gov](mailto:Shaw.Betsy@epa.gov)>; Robbins, Chris <[Robbins.Chris@epa.gov](mailto:Robbins.Chris@epa.gov)>; Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Starfield, Lawrence <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>; Breen, Barry <[Breen.Barry@epa.gov](mailto:Breen.Barry@epa.gov)>

**Cc:** Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Shenkman, Ethan <[Shenkman.Ethan@epa.gov](mailto:Shenkman.Ethan@epa.gov)>; O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>; Packard, Elise <[Packard.Elise@epa.gov](mailto:Packard.Elise@epa.gov)>; Temple, Kurt <[Temple.Kurt@epa.gov](mailto:Temple.Kurt@epa.gov)>; Lapierre, Kenneth <[Lapierre.Kenneth@epa.gov](mailto:Lapierre.Kenneth@epa.gov)>

**Subject:** NEED YOUR ASSISTANCE WITH URGENT REVIEW OF DRAFT LETTER OF CONCERN TO NC DEQ RE HOG OPERATIONS CIVIL RIGHTS CASE

**Importance:** High

Hello ORD, OECA, OW, OAR and OLEM Colleagues,

Happy new year and best wishes for 2017! Thank you all so much for all of the assistance you have already provided on this on this high priority case involving NC DEQ's administration of the swine feeding operations in their state. We are again asking for your assistance by way of urgent review of the attached "Letter of Concern" that we anticipate issuing next week. This draft already reflects comments/edits from OGC, DOJ, Region 4 and ORD.

ORD, thanks for your assistance in crafting some of the specific parts of this letter. We have a couple of follow up questions for you in the highlighted comment boxes. We are asking for the other program offices to please review this letter (and please see specifically the comment bubble on page 11) and provide any comments/question **by noon on Tuesday 1/10**. We very much appreciate your help! If you have any questions, please let me or Mary O'Lone know how we can help. Thanks so much!

Lilian

<draft REACH LOC to NC DEQ 1.4.2017.CLEAN 1-5-16.docx>

**To:** Tommelleo, Nancy[Tommelleo.Nancy@epa.gov]  
**Cc:** Wilkes, Mary[Wilkes.Mary@epa.gov]; Kreisler, Eva[Kreisler.Eva@epa.gov]  
**From:** Starfield, Lawrence  
**Sent:** Mon 2/23/2015 4:15:38 PM  
**Subject:** FW: REACH - Assistance Request - Enforcement Issues

Nancy,

Just checking that you have all of the information on this – if you need the complaint, please let me know and I'll forward it.

If you have already reviewed the complaint and have thoughts on the issues, please let us know.

Larry

**From:** O'Lone, Mary  
**Sent:** Monday, February 23, 2015 9:24 AM  
**To:** Starfield, Lawrence  
**Cc:** Wooden-Aguilar, Helena; Golightly-Howell, Velveta; Dorka, Lilian; Matthew, Dayna; Reeder, John  
**Subject:** Re: REACH - Assistance Request - Enforcement Issues

Larry-

Nancy Tommelleo & I have been in touch over the past several months & several times last week as it looked like the letter was going out. She has access to the SharePoint site.

By my count, the Complainants will need to respond to the request for clarification by March 12th.

FYI, both NC DENR (by Ken L. in R4, I think) & Earthjustice (by OCR) have already been approached informally about ADR.

NC DENR expressed initial interest, but will get back to EPA early next week. Earthjustice said they will have to confer with their clients and will try to let us know by Wednesday (2/25) if their clients are interested in ADR. Once both sign on formally to ADR, then we will put the investigation on hold. Until that time, OCR will continue to move forward.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

---

**From:** Starfield, Lawrence

**Sent:** Monday, February 23, 2015 9:11 AM

**To:** O'Lone, Mary

**Cc:** Wooden-Aguilar, Helena; Golightly-Howell, Velveta; Dorka, Lilian; Matthew, Dayna; Reeder, John

**Subject:** RE: REACH - Assistance Request - Enforcement Issues

Thanks. I will need to discuss this with Region 4's Enforcement Division and Office of Regional Counsel – I'd urge you to share these documents with them as well.

Larry

Larry Starfield

Principal Deputy Assistant Administrator  
Office of Enforcement and Compliance Assurance  
U.S. EPA  
Washington, DC  
(202) 564-2440 (office)

This message is CONFIDENTIAL, and may contain legally privileged information. If you are not the intended recipient, or believe you received this communication in error, please delete it immediately, do not copy, and notify the sender. Thank you.

**From:** O'Lone, Mary  
**Sent:** Monday, February 23, 2015 8:34 AM  
**To:** Starfield, Lawrence  
**Cc:** Wooden-Aguilar, Helena; Golightly-Howell, Velveta; Dorka, Lilian; Matthew, Dayna  
**Subject:** REACH - Assistance Request - Enforcement Issues

Larry-

I will grant you access to the REACH SharePoint site shortly where you will be able to find all the complaint documents.

In the meanwhile, I have attached the complaint and the volume of the exhibits that has the statement by **Ex. 6 - Personal Privacy** which is where the enforcement issues come up. The complaint raises the general allegation in ¶57. "Moreover, inadequate enforcement measures all but ensure the meager protections—such as the prohibition against spraying waste in the rain or on oversaturated fields—can go unheeded.

**Ex. 6 - Personal Privacy** ¶¶ 42, 48. The dwindling number of state inspectors, and lack of overtime staffing, exacerbate enforcement issues. Id. ¶ 47." Then the statement from Baldwin gets into some specific incidents in ¶¶ 46, 47, & 48, but he does not provide the date(s) on which the alleged discriminatory act(s) occurred which are necessary to determine timeliness.

With regard to the permitting allegations, the complaint generally alleges that NC DENR's issuance of the Swine Waste Management System General Permit (a creature of state law) without adequate measures to control, dispose of, and monitor the significant amounts of animal waste (e.g., urine, manure, carcasses) and pollutants from



more than 2,000 industrial swine feeding operations contributes to serious health problems, creates noxious odors, and prevents people in nearby homes and communities from enjoying their land and property. The complaint alleges that these adverse impacts are borne disproportionately by African Americans, Hispanics, and Native Americans.

Specifically, the adverse disparate impacts are allegedly caused by, among other things, the storing of large amounts of animal urine and feces in open air lagoons, spreading the waste slurry over nearby fields with high volume sprayers, and by the disposal and burial practices for carcasses. Numerous studies were provided or cited to help establish the link between swine waste storage and disposal operations and alleged adverse impacts.

The Complainants allege that the General Permit covers many facilities built before and during the 1990s, and while the General Permit is renewed every 5 years, it has not been updated to address well documented human health and environmental hazards by incorporating permit conditions designed to reduce or eliminate those hazards.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-4992

---

**From:** Wooden-Aguilar, Helena  
**Sent:** Saturday, February 21, 2015 10:59 AM  
**To:** O'Lone, Mary

**Cc:** Rhodes, Julia  
**Subject:** Fwd: REACH - An Assistance Request

FYI

Helena Wooden-Aguilar

Assistant Director

External Civil Rights - US EPA

202-564-0792 (office)

**Ex. 6 - Personal Privacy**

[wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov)

Begin forwarded message:

**From:** "Starfield, Lawrence" <[Starfield.Lawrence@epa.gov](mailto:Starfield.Lawrence@epa.gov)>  
**Date:** February 21, 2015 at 10:44:59 AM EST  
**To:** "Golightly-Howell, Velveta" <[Golightly-Howell.Velveta@epa.gov](mailto:Golightly-Howell.Velveta@epa.gov)>  
**Cc:** "Wooden-Aguilar, Helena" <[Wooden-Aguilar.Helena@epa.gov](mailto:Wooden-Aguilar.Helena@epa.gov)>  
**Subject:** RE: REACH - An Assistance Request

Velveta,

In deciding how best to assist, it would be helpful for me to see the nature of the allegations, e.g., whether they extend to discriminatory enforcement. Can you send me some of the key documents, or if they're on Sharepoint, give me access to the site? Thanks.

Larry

Larry Starfield  
Principal Deputy Assistant Administrator  
Office of Enforcement and Compliance Assurance  
U.S. EPA  
Washington, DC

(202) 564-2440 (office)

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**From:** Golightly-Howell, Velveta  
**Sent:** Friday, February 20, 2015 6:08 PM  
**To:** Starfield, Lawrence  
**Cc:** KeyesFleming, Gwendolyn; Reeder, John; Packard, Elise; Rhodes, Julia; O'Lone, Mary; Dorka, Lilian; Wooden-Aguilar, Helena; Matthew, Dayna; Colaizzi, Jennifer C.  
**Subject:** REACH - An Assistance Request  
**Importance:** High

Hi Larry. I wanted to let you know that today OCR issued the attached letters accepting for investigation one allegation and requesting clarification on another made in the Title VI complaint filed in September 2014 by Earthjustice regarding alleged discrimination related to swine feeding operations in North Carolina. Specifically, OCR will investigate whether:

- North Carolina DENR's regulation of swine feeding operations discriminates against African Americans, Latinos, and Native Americans on the basis of race and national origin in neighboring communities and violates Title VI and EPA's implementing regulations.

This investigation is on a tight timeframe and we appreciate your willingness to assist us. We intend to continue working with OECA's Title VI contact Caroline Emmerson who has been extremely helpful in coordinating OECA assistance in the past. At this early stage, we do not know specifically what technical assistance we may need.

Also, OCR would like to also be able to tap into existing EPA expertise in CAFO issues. We are looking for program staff who have the background and experience to assist us as we navigate what we anticipate will be controversial and potentially high profile issues. If you would please provide us with a CAFO contact that we could consult with on an as needed basis on sensitive issues, it would be most appreciated.

We have set up a SharePoint site containing copies of the complaint and other relevant materials. We are prepared to organize briefings or provide background and assistance to

any program staff who will be involved in the project. Please email Helena and Mary O'Lone of OGC the names of your Title VI and of your CAFO contacts. Mary will grant them access to the SharePoint site and Helena will schedule any requested briefings or meetings.

Also, please refer any press inquiries directly to Jennifer Colaizzi in OPA (202-564-7776). Jennifer is prepared to field all inquiries. Thank you in advance for your assistance.

Velveta

Velveta Golightly-Howell

Director, Office of Civil Rights

Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Mail Code 1201A

Washington, DC 20460

202-564-6685

**To:** Cameron, Angela[Cameron.Angela@epa.gov]  
**From:** Tommelleo, Nancy  
**Sent:** Thur 10/6/2016 3:18:51 PM  
**Subject:** FW: Background Material: Title VI Internal Coordination Meeting for North Carolina  
[EJ EPA 09132016.pdf - Dan River Incoming.pdf](#)  
[2016.07.12 Lado, ME re Acknowledgement 37R-16-R4.pdf](#)

## **Ex. 6 - Personal Privacy**

[2016.08.02 van der Vaart re Acceptance of Admin Complaint \(retaliation\) ....pdf](#)  
[2016.08.02 Engleman-Lado re Acceptance of Admin Complaint \(formerly 37R.....pdf](#)

Can you print these out for me>

thanks



*Nancy L. Tommelleo  
Deputy Regional Counsel*

United States Environmental Protection Agency  
Region 4  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303

tel: 404.562.9571  
fax: 404.562.9663  
[tommelleo.nancy@epa.gov](mailto:tommelleo.nancy@epa.gov)

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---

**From:** HALIM-CHESTNUT, NAIMA  
**Sent:** Wednesday, October 05, 2016 10:26 AM  
**To:** Lapierre, Kenneth <Lapierre.Kenneth@epa.gov>; Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>; Gordon, Scott <Gordon.Scott@epa.gov>; Hill, Franklin <Hill.Franklin@epa.gov>; Giattina, James <Giattina.Jim@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Farmer, Alan <Farmer.Alan@epa.gov>; Tennessee, Denise <Tennessee.Denise@epa.gov>; Kemker, Carol <Kemker.Carol@epa.gov>; Jones, Kim A <Jones.Kima@epa.gov>; White, Erika <White.Erika@epa.gov>  
**Subject:** Background Material: Title VI Internal Coordination Meeting for North Carolina

Team

I attaching some pertinent background information related to the ongoing Title VI complaints in North Carolina. These will be used to guide our internal coordination discussion next week.

Should you have any questions, or require additional information, or if you feel I have missed sending something please let me know.

Thank you.

Please follow this link for an additional attachment.

<https://ncdenr.s3.amazonaws.com/s3fs-public/DENR/Image%20Files/2016%2009%2002%20Title%20VI%20ltr%20to%20Dorka%20with%20DEQ%20position%20on%20File%20No.%2011R-14-R4.pdf>

*I AM Diversity!*

Naima Halim-Chestnut, MAOM

U.S. Environmental Protection Agency, Region 4

Regional Civil Rights Officer | Office of Civil Rights

61 Forsyth St. SW | Atlanta, GA 30303

Direct Line: 404-562-9220 | Cell Phone: 678-576-6127 | E-mail: [halim-chestnut.naima@epa.gov](mailto:halim-chestnut.naima@epa.gov)

OCR Intranet Page: <http://r4intra.epa.gov/opm/civilrights/index.html>

***Hispanic Heritage Month is from September 15 - October 15, theme, Hispanic Americans: "Embracing, Enriching and Enabling America"***

-----Original Appointment-----

**From:** Gettle, Jeaneanne **On Behalf Of** Lapierre, Kenneth

**Sent:** Wednesday, October 05, 2016 9:23 AM

**To:** HALIM-CHESTNUT, NAIMA

**Subject:** Fwd: Title VI Internal Coordination Meeting for North Carolina

**When:** Wednesday, October 12, 2016 3:00 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** ARA Conference Room

Naima

Can you send background materials? Others may have it already but I don't think I do and I need a little more info to determine who needs to attend.

JMG

Sent from my iPhone

Begin forwarded message:

**From:** "Lapierre, Kenneth" <[Lapierre.Kenneth@epa.gov](mailto:Lapierre.Kenneth@epa.gov)>  
**To:** "HALIM-CHESTNUT, NAIMA" <[Halim-Chestnut.Naima@epa.gov](mailto:Halim-Chestnut.Naima@epa.gov)>, "Tommelleo, Nancy" <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>, "Gordon, Scott" <[Gordon.Scott@epa.gov](mailto:Gordon.Scott@epa.gov)>, "Hill, Franklin" <[Hill.Franklin@epa.gov](mailto:Hill.Franklin@epa.gov)>, "Giattina, James" <[Giattina.Jim@epa.gov](mailto:Giattina.Jim@epa.gov)>, "Gettle, Jeaneanne" <[Gettle.Jeaneanne@epa.gov](mailto:Gettle.Jeaneanne@epa.gov)>, "Farmer, Alan" <[Farmer.Alan@epa.gov](mailto:Farmer.Alan@epa.gov)>, "Tennessee, Denise" <[Tennessee.Denise@epa.gov](mailto:Tennessee.Denise@epa.gov)>, "Kemker, Carol" <[Kemker.Carol@epa.gov](mailto:Kemker.Carol@epa.gov)>, "Jones, Kim A" <[Jones.Kima@epa.gov](mailto:Jones.Kima@epa.gov)>, "White, Erika" <[White.Erika@epa.gov](mailto:White.Erika@epa.gov)>  
**Subject:** Title VI Internal Coordination Meeting for North Carolina

Directors please invite key players from your division (additional documents will be forthcoming from Naima).

**To:** Kemker, Carol[Kemker.Carol@epa.gov]  
**From:** Tommelleo, Nancy  
**Sent:** Thur 10/6/2016 1:48:48 PM  
**Subject:** Question for you - FW: REACH - request to set up call with R4 water folks

Do you know how to contact Chet Wheylan? You had indicated that he worked for OAQPS and was doing some emissions modeling in NC.

Thanks

N



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

fax: 404.562.9663

[tommelleo.nancy@epa.gov](mailto:tommelleo.nancy@epa.gov)

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confidential, or otherwise legally exempt from disclosure. If you have received this message in error, please notify the sender immediately by email and delete all copies of this message.

**From:** O'Lone, Mary  
**Sent:** Wednesday, October 05, 2016 8:54 AM  
**To:** Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Nancy-

We can't find a Richard (Chet) Wheylan in the EPA directories.

Do you have a way to contact him?

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy  
**Sent:** Tuesday, October 04, 2016 4:24 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Subject:** RE: REACH - request to set up call with R4 water folks

I am not coordinating on Chet. I just mentioned him as someone you all might want to talk to separately. I don't think he needs to be in on the regional call.

Tx -Nancy



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

Atlanta, Georgia 30303

tel: 404.562.9571

fax: 404.562.9663

[tommelleo.nancy@epa.gov](mailto:tommelleo.nancy@epa.gov)

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**From:** O'Lone, Mary

**Sent:** Tuesday, October 04, 2016 4:17 PM  
**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>  
**Cc:** Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Nancy-

On Chet. Are you all coordinating with him to have him present? Or are you recommending he be included even though he is OAQPS, not R4?

Just wondering if the OCR invite to him will be coming out of the blue or he knows & is expecting it?

I am ccing Ericka who is making arrangements for the meeting.

Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy  
**Sent:** Monday, October 03, 2016 5:04 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

I think 90 minutes. If we finish earlier – all the better.

N



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

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**From:** O'Lone, Mary

**Sent:** Monday, October 03, 2016 4:58 PM

**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Do you think 60 minutes or 90 minutes?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy  
**Sent:** Monday, October 03, 2016 1:13 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>  
**Cc:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Mary:

Here is a list of regional folks (15) that would want to participate in the staff level call on what the Region is currently doing in NC if you want to a Calendar Invite. They cover water, Air, EJ, enforcement, some of my legal folks, and OCR. They reflect a combination of staff and managers. My contact for helping set up the VTC (once you decide on date/time) is Angela Cameron (404-562-8492).

Water:

Denise Diaz

Tom McGill

Cesar Zapata

Dan O'lonc

Don Joe

Jim Giattina

EJ

Denise Tennessee

Enforcement

Scott Gordon

Air

Carol Kemker

Legal

Nancy Tommelleo

Carol Baschon

Paul Schwartz

Kim A. Jones

OCR

Ken Lapierre

Naima Halim-Chestnut

Also, you may know this, but OAQPS has been doing some emission inventory work in NC. The OAQPS contact for this is Richard (Chet) Wheylan.

Let me know date/times for the VTC.

Thanks

Nancy



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

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61 Forsyth Street, S.W.

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confidential, or otherwise legally exempt from disclosure. If you have received this message in error, please notify the sender immediately by email and delete all copies of this message.

**From:** O'Lone, Mary  
**Sent:** Wednesday, September 14, 2016 4:28 PM  
**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Nancy-

## Ex. 5 - Attorney Client

I mentioned to Lilian that we needed to get her to reach out to Ken to get the bigger picture overview of R4 activities in NC re: CAFOs and/or the communities we are talking about (*e.g.*, EJ activities, enforcement, water stuff too). But I haven't been able to make that happen yet.  
Thanks, Mary

Mary O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel  
US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992



**From:** Tommelleo, Nancy  
**Sent:** Wednesday, September 14, 2016 3:52 PM  
**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Mary: would be on this call from HQ? and is this the call that Lilian wanted to have with our Division Director level people?



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

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**From:** O'Lone, Mary  
**Sent:** Wednesday, September 14, 2016 3:00 PM  
**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>  
**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** REACH - request to set up call with R4 water folks

Nancy-

Per our conversation a week or so ago, would it be possible to set up a call next week with some combination of your water folks (*e.g.*, Denisse, Dan O., Don) to talk about R4 & CAFOs in NC.

## Ex. 5 - Attorney Client

Also, I don't know if Denisse, Dan, & Don are NPDES-only or also cover drinking water/groundwater issues. If they do both, we'd like to talk about that too. If not, we'd like to set up a separate chat with appropriate R4 folks on drinking water/groundwater too.

Let me know if I should send out and invite & to whom I should send it. Or if you want to set it up. Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992



**To:** O'Lone, Mary[olone.mary@epa.gov]  
**From:** Tommelleo, Nancy  
**Sent:** Mon 10/3/2016 9:03:36 PM  
**Subject:** RE: REACH - request to set up call with R4 water folks

I think 90 minutes. If we finish earlier – all the better.

N



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

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**Sent:** Monday, October 03, 2016 4:58 PM  
**To:** Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Do you think 60 minutes or 90 minutes?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy  
**Sent:** Monday, October 03, 2016 1:13 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Mary:

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Cesar Zapata

Dan O'lonc

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Air

Carol Kemker

Legal

Nancy Tommelleo

Carol Baschon

Paul Schwartz

Kim A. Jones

OCR

Ken Lapierre

Naima Halim-Chestnut

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Nancy



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

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**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Nancy-

**Ex. 5 - Attorney Client**

**Ex. 5 - Attorney Client**

Mary O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel  
US EPA  
1200 Pennsylvania Avenue, NW



Washington, DC 20460

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**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>

**Subject:** RE: REACH - request to set up call with R4 water folks

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*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

Region 4

61 Forsyth Street, S.W.

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**Sent:** Wednesday, September 14, 2016 3:00 PM

**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>

**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** REACH - request to set up call with R4 water folks

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## Ex. 5 - Attorney Client

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Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**To:** Cameron, Angela[Cameron.Angela@epa.gov]  
**From:** Tommelleo, Nancy  
**Sent:** Mon 10/3/2016 5:20:04 PM  
**Subject:** FW: REACH - request to set up call with R4 water folks

Hi Angie:

Please see below. Whenever we get some dates/times from OGC, we will need to set up the VTC for 13B.

Thanks

Nancy



*Nancy L. Tommelleo*

*Deputy Regional Counsel*

United States Environmental Protection Agency

Region 4

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**From:** Tommelleo, Nancy  
**Sent:** Monday, October 03, 2016 1:13 PM  
**To:** O'Lone, Mary <olone.mary@epa.gov>  
**Cc:** Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>  
**Subject:** RE: REACH - request to set up call with R4 water folks

Mary:

Here is a list of regional folks (15) that would want to participate in the staff level call on what the Region is currently doing in NC if you want to a Calendar Invite. They cover water, Air, EJ, enforcement, some of my legal folks, and OCR. They reflect a combination of staff and managers. My contact for helping set up the VTC (once you decide on date/time) is Angela Cameron (404-562-8492).

Water:

Denise Diaz

Tom McGill

Cesar Zapata

Dan O'lone

Don Joe

Jim Giattina

EJ

Denise Tennessee

Enforcement

Scott Gordon

Air

Carol Kemker

Legal

Nancy Tommelleo

Carol Baschon

Paul Schwartz

Kim A. Jones

OCR

Ken Lapierre

Naima Halim-Chestnut

Also, you may know this, but OAQPS has been doing some emission inventory work in NC. The OAQPS contact for this is Richard (Chet) Wheylan.

Let me know date/times for the VTC.

Thanks

Nancy



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**From:** O'Lone, Mary

**Sent:** Wednesday, September 14, 2016 4:28 PM

**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>

**Subject:** RE: REACH - request to set up call with R4 water folks

Nancy-

# Ex. 5 - Attorney Client

# Ex. 5 - Attorney Client

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy

**Sent:** Wednesday, September 14, 2016 3:52 PM

**To:** O'Lone, Mary <[OLone.Mary@epa.gov](mailto:OLone.Mary@epa.gov)>

**Subject:** RE: REACH - request to set up call with R4 water folks

Mary: would be on this call from HQ? and is this the call that Lilian wanted to have with our Division Director level people?





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*Deputy Regional Counsel*

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**From:** O'Lone, Mary

**Sent:** Wednesday, September 14, 2016 3:00 PM

**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>

**Cc:** Isales, Daniel <[Isales.Daniel@epa.gov](mailto:Isales.Daniel@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** REACH - request to set up call with R4 water folks

Nancy-

Per our conversation a week or so ago, would it be possible to set up a call next week with some combination of your water folks (e.g., Denisse, Dan O., Don) to talk about R4 & CAFOs in NC.

# Ex. 5 - Attorney Client

Also, I don't know if Denisse, Dan, & Don are NPDES-only or also cover drinking water/groundwater issues. If they do both, we'd like to talk about that too. If not, we'd like to set up a separate chat with appropriate R4 folks on drinking water/groundwater too.

Let me know if I should send out and invite & to whom I should send it. Or if you want to set it up. Thanks, Mary

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**To:** O'Lone, Mary[olone.mary@epa.gov]  
**From:** Tommelleo, Nancy  
**Sent:** Tue 8/2/2016 5:14:14 PM  
**Subject:** RE: CAFO enforcement info

I will try.



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*Deputy Regional Counsel*

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**From:** O'Lone, Mary  
**Sent:** Tuesday, August 02, 2016 1:14 PM  
**To:** Tommelleo, Nancy <Tommelleo.Nancy@epa.gov>

**Cc:** HALIM-CHESTNUT, NAIMA <Halim-Chestnut.Naima@epa.gov>; Diaz, Denisse <Diaz.Denisse@epa.gov>; Joe, Don <Joe.Don@epa.gov>  
**Subject:** RE: CAFO enforcement info

Nancy, Denisse, & Don-

Ethan has asked to move the meeting back an hour. Will you all be able to attend at 4?

Mary O'Lone

Civil Rights and Finance Law Office

Office of General Counsel

US EPA

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy  
**Sent:** Monday, August 01, 2016 3:51 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** HALIM-CHESTNUT, NAIMA <Halim-Chestnut.Naima@epa.gov>; Diaz, Denisse <Diaz.Denisse@epa.gov>; Joe, Don <Joe.Don@epa.gov>  
**Subject:** RE: CAFO enforcement info

Thanks Mary.

I am copying Denise Diaz and Don Joe from our Water Protection Division's water enforcement branch. They are most knowledgeable about CAFO enforcement here in the Region and will try to attend the call if they can. I will forward Ethan's calendar invite to them.

Thanks

Nancy



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**From:** O'Lone, Mary

**Sent:** Monday, August 01, 2016 3:17 PM

**To:** Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>

**Cc:** HALIM-CHESTNUT, NAIMA <[Halim-Chestnut.Naima@epa.gov](mailto:Halim-Chestnut.Naima@epa.gov)>

**Subject:** RE: CAFO enforcement info

## **Ex. 5 - Attorney Client**

## **Ex. 5 - Attorney Client**

## **Ex. 5 - Attorney Client**

So someone who is familiar with what you guys do.

Mary O'Lone

Civil Rights and Finance Law Office

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US EPA

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Washington, DC 20460

(202) 564-4992

**From:** Tommelleo, Nancy  
**Sent:** Monday, August 01, 2016 2:26 PM  
**To:** O'Lone, Mary <OLone.Mary@epa.gov>  
**Cc:** HALIM-CHESTNUT, NAIMA <Halim-Chestnut.Naima@epa.gov>  
**Subject:** CAFO enforcement info

Mary:

Here is info we sent previously about CAFO enforcement in NC.

With regard to getting someone for Ethan's call tomorrow – what is this call about – is it internal only?

Let me know I can try to see if the right regional person can attend.

Thanks

Nanc



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**From:** Tommelleo, Nancy

**Sent:** Thursday, December 18, 2014 4:16 PM

**To:** Rhodes, Julia <[Rhodes.Julia@epa.gov](mailto:Rhodes.Julia@epa.gov)>

**Cc:** Wilkes, Mary <[Wilkes.Mary@epa.gov](mailto:Wilkes.Mary@epa.gov)>; Davis, Molly <[Davis.Molly@epa.gov](mailto:Davis.Molly@epa.gov)>; Ghosh, Mita <[Ghosh.Mita@epa.gov](mailto:Ghosh.Mita@epa.gov)>; Floyd, Tanya <[Floyd.Tanya@epa.gov](mailto:Floyd.Tanya@epa.gov)>; Rubini, Suzanne <[Rubini.Suzanne@epa.gov](mailto:Rubini.Suzanne@epa.gov)>; Tommelleo, Nancy <[Tommelleo.Nancy@epa.gov](mailto:Tommelleo.Nancy@epa.gov)>

**Subject:** RE: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Julia:

Below are the Region's responses to the two questions you posed in your email regarding the NC CAFO General Permit.

1. Did EPA comment on the draft general permit? If so, what were those comments?

No. EPA did not comment on the draft general permit (AWG100000). EPA does not review or comment on these kinds of State Operating Permits because we lack CWA jurisdiction to do so



(they are not issued pursuant to CWA authority). NC issues State Operating Permits to Animal Feeding Operations (AFOs) and Concentrated Animal Feeding Operations (CAFOs) for facilities that do not discharge to waters of the US. These permits are no-discharge permits and are not CWA NPDES permits. Consequently, the State does not send us, for review or comment, their draft State Operating Permits, like the one in question.

**Other information:** The State of NC currently has 3 State Operating General Permits for animal waste operations (a/k/a Animal Waste Management System State General Permits): AWG200000 for cattle; AWG300000 for poultry; and AWG100000 for swine. According to the FY15 106 Work Plan, there are about 1,106 large CAFOs with State Operating Permits and about 17 CAFO facilities covered under the NDPS program in North Carolina.

2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforces the permit under both the CAA and CWA

**CWA:** See above. EPA does not review or enforce these State Operating General Permits as there is no federal jurisdiction to do so. However, we can inspect/enforce at CAFOs for NMP violations.

**CWA - NMP Inspection/Enforcement:** The CWA requires all unpermitted (i.e., those without NPDES permits) large CAFO facilities to have nutrient management plans (NMP) to claim an exemption from stormwater permitting requirements. EPA can use its enforcement discretion to conduct inspections at a CAFO facility to ensure the facility is complying with the NMP. If it is found during an inspection that a CAFO facility is actually discharging to waters of the U.S. without NPDES permit coverage, EPA may bring an enforcement action against the facility for unpermitted discharges of pollutants to waters of the U.S.

## Ex. 5 - Attorney Client / Deliberative

**CAA:** The State Operating General Permit (AWG100000) is issued under North Carolina's water pollution regulations (North Carolina G.S. 143-215). The permit does not contain any air

requirements nor is it issued under any NC air regulatory authority.

Ex. 5 - Attorney Client / Deliberative

## Ex. 5 - Attorney Client / Deliberative

-

Let us know if you need further information or have any questions about the above.

Thanks

Nancy



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*Deputy Regional Counsel*

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**From:** Rhodes, Julia

**Sent:** Wednesday, December 17, 2014 11:48 AM

**To:** Tommelleo, Nancy

**Subject:** FW: For Review by Director: Materials for REACH Discussion--deliberative/attorney-work product. do no release

Hi Nancy,

Attached is a draft document for your consideration.

Before moving forward this matter, we need your assistance in answering the following questions:

1. Did EPA comment on the draft general permit? If so, what were those comments
2. After DENR finalized and issued the general permit, what are the mechanisms available by which EPA reviews, engages or enforcements the permit under both the CAA and CWA

Other questions that OCR and CRFLO are grappling with but ORC should feel free to weigh in on are:

1. Do we know if complainants submitted comments on DENR's draft general permit? If so what were they?
2. Any cut points/decision points where there may be decisions to either end the investigation or take the investigation in a different direction
3. Where along the 18 month investigatory trajectory will there be points where decisions will be made
4. Can/should we engage in ADR prior to accepting a complaint

Also, it is possible depending on what the jurisdictional determination is in this case, that there will be a need for a series of briefings on CAFOs, as well as meetings with EarthJustice.

Feel free to give me a call if you have any questions.

Thanks, in advance, for your assistance.

Julia

Julia Rhodes

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